

Readoption Review

Certification of Food Handlers 410 IAC 7-22

IC 4-22-2.5-3.1(c) requires an agency to conduct a review to consider whether there are alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would minimize the economic impact of the proposed rule on small business.

Description of Rule:

The Indiana State Department of Health (ISDH) has the responsibility and mandate to adopt a rule to regulate the certification of food handlers in Indiana. In 1996, the Indiana General Assembly enacted IC 4-22-2.5, to establish automatic expiration of any rule in effect for more than seven years, and to create a streamlined method for readoption of such rules without change. On May 19, 2003, the ISDH adopted 410 IAC 7-22 to promulgate rules related to the certification of food handlers as required under IC 16-42-5.2-13. In accordance with IC 4-22-2.5, 410 IAC 7-22 must be readopted if it is to remain in effect.

Readoption Analysis:

1) Is there a continued need for this rule?

IC 16-42-5.2 requires the state department to establish a rule to administer and provide civil penalties for non-compliance with the statute's requirement that at least one food handler at certain food establishments must be certified by a nationally recognized food protection program determined by the state department of health. It is necessary for this rule to continue in order to comply with the statute. The rule also provides a mechanism to further public health by improving the knowledge of food safety for thousands of persons working in the food industry in Indiana. According to the US Food and Drug Administration and national studies they have completed, a direct correlation exists between certifying food handlers and the reduction of foodborne illness.

2) What is the nature of any complaints or comments received from the public, including small business, concerning the rule or the implementation of the rule by the agency?

When the law first took effect there were complaints from different entities about the expense, but now since the specific requirements in 410 IAC 7-22-15 have been amended in 2006, we have received no further complaints from the industry.

3) Examine the complexity of the rule, including difficulties encountered by the agency in administering the rule and small businesses in complying with the rule.

No complaints or comments have been received from small business about this rule or the implementation of it and the ISDH is not aware of any difficulties in administration of or compliance with this rule since the last amendment was made to the statute and the rule. It is difficult to see how

the rule could be made easier to understand or implement. The statute and rule both reference the American National Standards Institute (ANSI) standards for the food manager certification process. Indiana does not need to amend its rules to address how accredited testing organizations are governed as this is covered by ANSI. In addition, one industry trade association even suggested that the requirements should be amended to require additional certified food handlers for all periods of operation by a food establishment. The rule attempts to be less burdensome on the industry while still focusing on the protection of food for the public.

4) To what extent does the rule overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances?

This rule does not overlap, duplicate, or conflict with any other federal, state, or local laws, rules, regulations, or ordinances.

5) When was the last time the rule was reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by this rule since that time?

The rule was amended in 2006 (*see* 410 IAC 7-2-15) to include additional exemptions that had been recently added to the statute by the Indiana Legislature. In the last 3 years the availability of online training and examinations has become available thereby reducing the cost for certification candidates to obtain the required credential.

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